

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

GARRETT STEPSIS,)
)
Appellant,)
)
v.) C.A. No. N10A-12-014 WCC
)
UNEMPLOYMENT INSURANCE)
APPEAL BOARD,)
)
Appellee.)

Submitted: February 20, 2012

Decided: May 31, 2012

On Appellant/Claimant's Appeal from the
Unemployment Insurance Appeal Board – **AFFIRMED**

ORDER

Garrett M. Stepsis. 2106-C Haven Road, Wilmington, DE 19809. *Pro se*
Appellant.

Caroline Cross, Esquire and Katisha Fortune, Esquire. 820 N. French Street, 6th
Floor, Wilmington, DE 19801. Attorneys for Appellee UIAB.

Thomas H. Ellis, Esquire. 820 N. French Street, Wilmington, DE 19801.
Attorney for Delaware Department of Labor, Division of Unemployment
Insurance.

CARPENTER, J.

On this 31st day of May, 2012, upon consideration of Garrett M. Stepsis' appeal from the Unemployment Insurance Appeal Board, it appears to the Court that:

1. Appellant Garrett M. Stepsis worked for SevOne, Inc. from January 2008 to January 2009 when he was laid off. He subsequently filed a claim for unemployment benefits and received an amount of \$330 per week. On March 22, 2010, Stepsis began working for Marlin Leasing Corporation. When Marlin terminated Stepsis' employment on May 20, 2010, Stepsis again applied for unemployment benefits.
2. As a result of the May, 2010 claim, the Division of Unemployment Insurance ("Division") determined that Stepsis was eligible for benefits in the amount of \$148 per week. Stepsis appealed this determination, arguing that he should continue to receive \$330 per week as before. When the Appeals Referee agreed with the Division's calculations, Stepsis appealed to the Unemployment Insurance Appeal Board. When the Board, too, affirmed the Division's calculations, Stepsis appealed to the Court.
3. When reviewing an appeal from the Unemployment Insurance Appeal Board, the Court evaluates the record to determine if it included substantial evidence that a reasonable mind could accept as adequate support for the

Board's conclusions.¹ Substantial evidence is evidence from which an agency could fairly and reasonably reach the conclusion that it did.² The Court also evaluates the record to verify that the Board's conclusions are free from legal error.³ In this case, the Court must decide whether the Board erred in affirming the Division's calculations of Stepsis' unemployment benefits.

4. Before proceeding to a review of the calculation of benefits, the Court notes that many of Stepsis' claims have no relationship to his application for unemployment benefits. His claims that \$148 per week was insufficient to cover normal living expenses or punished him for going back to work are a natural product of Stepsis' frustration with his unemployment situation, but they are not legal arguments against the Board's findings. This is also true of Stepsis' argument that his employer failed to pay him commissions he asserts he earned. The Court appreciates that these are all real and personal concerns for Stepsis and it sympathizes with the difficult situation that Stepsis faced. While these issues may be relevant to a legislative revision of

¹ *Unemployment Ins. Appeal Bd. of Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

² *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981).

³ *Duncan*, 337 A.2d at 309.

certain statutes, they are not relevant to the legal issues now before the Court.

5. There is no question that the calculation of unemployment benefits is a complicated process. The multi-step process begins with the determination of the claimant's "benefit year." Benefit year is defined in 19 *Del. C.* § 3302(3) as the following:

- (3) "Benefit year" with respect to any individual means the 1-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 1-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of the worker's last preceding benefit year.

When Stepsis initially filed for benefits on January 11, 2009 his benefit year was calculated from that date and ended on January 10, 2010. This benefit year and any extensions would have ended when he returned to work on March 22, 2010. Accordingly, the calculation of the benefit year was not meant to continue indefinitely nor to be used whenever Stepsis was again eligible for unemployment benefits. When Stepsis filed a claim for unemployment benefits in May of 2010, a new benefit year had to be

calculated. This claim was filed on May 23, 2010 and thus the benefit year ran to May 22, 2011.

6. The Division next determines the claimant's "base period." The base period is the first four of the last five completed calendar quarters immediately preceding a claimant's benefit year.⁴ Because Stepsis filed in May 2010, the second quarter of 2010 was not completed and therefore the last five completed calendar quarters were January, February, and March 2010 (Quarter 5); October, November, and December 2009 (Quarter 4); July, August, and September 2009 (Quarter 3); April, May, and June 2009 (Quarter 2); and January, February, and March 2009 (Quarter 1). The first four of these quarters make up the entire year of 2009. Stepsis' base period, then, began on January 1, 2009 and ended on December 31, 2009.
7. Finally, the Division calculates the claimant's "weekly benefit amount." To do this, the Division identifies the two quarters of the claimant's base period in which he received the most wages and then adds these two quarters' wages together.⁵ However, during Stepsis' base period, he only received wages in the first quarter of 2009: these were from SevOne in the amount of

⁴ 19 *Del. C.* § 3302(2).

⁵ 19 *Del. C.* § 3313(c).

\$6,811.68. The Division divides this figure by 46 to arrive at the claimant's weekly benefit amount. This resulted in Stepsis' weekly benefit amount of \$148.⁶

8. Stepsis argues that the Division should have included his 2008 SevOne wages in calculating his weekly benefit amount but he provides no legal justification for this belief beyond the argument that it is fair. The Division could not include Stepsis' 2008 wages in its calculations because no quarter of 2008 fell within Stepsis' base period. While the Division may use an "alternative base period" to calculate a claimant's weekly benefit amount when the claimant has earned insufficient wages, the Division concluded this was unnecessary because Stepsis earned sufficient wages to qualify for benefits.⁷

9. The Court is confident that the Division and the Board correctly applied the laws as they are written to the facts of Stepsis' case. For the foregoing

⁶ *See id.* ("If such weekly benefit amount is not an even dollar amount, it shall be rounded down to the next whole dollar.").

⁷ *See* 19 *Del. C.* § 3302(2) ("However, if the claimant has earned insufficient wages in the first 4 of the last 5 completed calendar quarters to become eligible for benefits, then such claimant's 'base period' shall be the 4 most recent completed calendar quarters immediately preceding the first day of the claimant's benefit year.").

reasons, the decision of the Unemployment Insurance Appeal Board is
hereby AFFIRMED.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.

Judge William C. Carpenter, Jr.